

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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DAVID KLUCKA,

Plaintiff,

v.

CAESAR ALMASE, et al.,

Defendants.

Case No. 2:15-cv-01658-RFB-PAL

ORDER

(IFP Application – Dkt. #1)

This matter is before the Court on Plaintiff David Klucka's Application to Proceed *In Forma Pauperis* (Dkt. #1), filed August 27, 2015. This proceeding is referred to the undersigned pursuant to 28 U.S.C. § 636(a) and LR IB 1-3 and 1-9 of the Local Rules of Practice.

LSR 1-1 states that any person who is unable to prepay the fees in a civil case may apply to the Court for authority to proceed *in forma pauperis* ("IFP"), meaning without prepaying the full three hundred fifty dollar (\$350.00) filing fee.¹ See also 28 U.S.C. § 1915(b)(1). Plaintiff is a prisoner proceeding in this action *pro se*, which means that he is not represented by counsel. See LSR 2-1. Plaintiff has requested authority to proceed IFP in this action; however, his IFP Application is incomplete.

LSR 1-2 and § 1915 specifically require three items be submitted to this Court with a prisoner's IFP application: (1) a financial certificate signed by an authorized officer of the institution in which he or she is incarcerated,² (2) a copy of his or her inmate trust account

¹ Pursuant to the Court's Schedule of Fees dated January 1, 2015, the administrative fee of \$50.00 does not apply to persons granted *in forma pauperis* status under 28 U.S.C. § 1915.

² LSR 1-2 provides:

An application to proceed *in forma pauperis* received from an incarcerated or institutionalized person shall be accompanied by a certificate from the institution certifying the amount of funds currently held in the applicant's trust account at the institution and the net deposits in the applicant's account for the six (6) months preceding

1 statement for the six-month period prior to filing, and (3) a signed affidavit showing an inability
 2 to prepay fees and costs or give security for them. The financial affidavit required for prisoners
 3 differs from the “Short Form” for non-incarcerated litigants; thus, prisoners must submit the
 4 correct form of IFP application for the Court’s review.

5 At the time Plaintiff filed his IFP Application, he was incarcerated at the Clark County
 6 Detention Center. Plaintiff did provide a copy of his inmate trust account statement for the six-
 7 month period prior to filing. However, he incorrectly filed “Short Form” IFP application for
 8 non-incarcerated persons. Because Plaintiff used the incorrect form, his IFP Application does
 9 not contain the appropriate financial information, affidavit, or financial certificate for
 10 incarcerated litigants as required by § 1915(a) and LSR 1-2. Although Plaintiff may qualify to
 11 proceed IFP, the Court cannot determine the amount of the initial partial filing fee because
 12 Plaintiff has not submitted the correct IFP application, affidavit, and financial certificate.
 13 Therefore, the Court will deny Plaintiff’s IFP Application without prejudice.

14 Accordingly,

15 **IT IS ORDERED:**

- 16 1. Plaintiff’s Application to Proceed *In Forma Pauperis* (Dkt. #1) is DENIED
 17 WITHOUT PREJUDICE.
- 18 2. The Clerk of Court shall retain Plaintiff’s Complaint (Dkt. #1-1), and shall mail
 19 Plaintiff a blank IFP application for incarcerated litigants along with instructions for
 20 completing the application.
- 21 3. Plaintiff shall file a new IFP application, accompanied by a signed and executed
 22 financial certificate, and a signed and executed financial affidavit.
- 23 4. Plaintiff shall have until **October 21, 2015**, to file a new IFP application.

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26 the submission of the application. If the applicant has been at the institution for less than
 27 six (6) months, the certificate shall show the account’s activity for such period.

28 (emphasis added).

1 5. Alternatively, Plaintiff shall pay the filing fee of three hundred fifty dollars (\$350.00),
2 accompanied by a copy of this Order, on or before **October 21, 2015**.

3 6. Plaintiff's failure to comply with this Order by: (a) submitting a new IFP application,
4 or (b) paying the filing fee, before the **October 21, 2015** deadline will result in a
5 recommendation to the District Judge that this case be dismissed.

6 Dated this 21st day of September, 2015.

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9 PEGGY A. LEEN
UNITED STATES MAGISTRATE JUDGE